

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

Executive Order

375 G187

SCF

OLC 77 Q460.

29 JAN 1977

Guidelines

SSCI

77-0375

The Honorable Daniel K. Inouye
Chairman, Select Committee on
Intelligence
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

As you know, Section 6(b) of Executive Order 11905 requires that Inspectors General and General Counsels within the Intelligence Community submit periodic reports to the Intelligence Oversight Board (IOB) concerning activities of their respective agencies that raise questions of legality or propriety. It is the function of the IOB to consider these reports and make any appropriate reports of its own to the Attorney General or the President. Further, it is the responsibility of senior Intelligence Community officials under Section 4(a)(5) of E.O. 11905 to report possible violations of federal law to the Attorney General. That requirement is related to the obligations imposed on heads of all Executive departments and agencies by 28 U.S.C. §535.

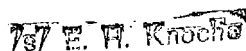
At my confirmation hearing on 23 June 1976, you asked in effect whether the Agency would be willing to make available to your Committee reports similar to those submitted to the IOB or the Attorney General in respect of Agency activities that raise questions of legality or propriety or possible law violations. I answered in the affirmative. In line with that exchange, I propose the following arrangements: Within a month after any report has been furnished to the IOB by the Agency's Inspector General or General Counsel, these officials, unless the Agency is instructed to the contrary by the President, will inform the Committee's Staff Director in writing as to the general nature of the items reported. To the extent that the Committee or its Staff Director may be interested in pursuing further any of these items, the Inspector General or the General Counsel, as the case may be, will be available to provide additional detail. With respect to matters reported to the Attorney General, involving possible law violations, the Agency's General Counsel will prepare and submit to the Committee Staff Director, quarterly, a written statement indicating the number of previously reported possible offenses closed out during the preceding quarter by a Department of Justice decision to prosecute or not to prosecute, together with a brief description of the circumstances, without however identifying the potential violators. These statements would also indicate the number and type of possible offenses reported for the first time during the preceding quarter.



I believe that these arrangements will serve the Committee's oversight needs without infringing on other legitimate interests that should properly be taken into account. So far as concerns the items reported to the IOB, it seems to me that a 30-day period is the minimum that should be allowed for executive consideration before involving the Congress, especially in view of the fact that the reporting threshold under Section 6(b) of E.O. 11905 is crossed when serious questions of legality or propriety appear, prior even to final determinations and resolutions of the issues raised by the particular activities. So far as concerns the matters reported to the Attorney General, there are considerations having to do both with fairness to the individuals involved, as to whom reports may be made on the basis of mere possibilities that they committed some offense, and with the integrity of any investigations that may be conducted by the Department of Justice pursuant to our reports.

The proposed arrangements have already been discussed by the Agency's General Counsel and Bill Miller, but I would be pleased to discuss them further at your convenience should you desire.

Sincerely,

E. H. Knoche

E. H. Knoche
Acting Director

OGC:AAL:sin

Distribution:

Original - Addressee

- 1 - DDCI
- 1 - OLC
- 1 - ER via Ex Secty
- 1 - IG
- 1 - OGC

that the appropriate congressional committees be briefed on all covert actions, not just major projects. Can you assure the committee that it will be notified of all covert actions?

Mr. KNOCH. Yes, Mr. Chairman, I think that working with the committee and the staff, we can develop ways for doing that in an orderly and regular way. There are a number of small details that pertain to some forms of covert action, but I think that we can work out an arrangement with the committee whereby they would be categorized and made the subject of periodic briefings, and I would be glad to work with the committee and the committee's staff in trying to do so.

The CHAIRMAN. I have several questions here that I believe should be submitted to you in writing because of their sensitive nature. May I request that these questions be studied and responses be made for classified files, sir?

Mr. KNOCH. Indeed, sir.

The CHAIRMAN. Under Executive Order 11905, the General Counsel and the Inspector General are required to report to the Intelligence Oversight Board on activities that raise questions of legality and propriety. They must report allegations involving such activities and the results of their investigations. They are also required to report any instance where they are instructed not to make such reports.

Will you instruct the General Counsel and the Inspector General to provide to this committee similar reports to aid this committee in its oversight function?

Mr. KNOCH. Yes, sir, I will.

The CHAIRMAN. At present the General Counsel is required to refer to the Department of Justice allegations that activities by CIA employees violate Federal law. In order to assist the committee in its oversight role will you instruct the General Counsel to notify the committee when and if such a referral takes place?

Mr. KNOCH. Yes, sir, I will.

The CHAIRMAN. Since 1973 the Director of Central Intelligence has regularly issued a call to CIA employees to report to him any activities which raise questions of legality or propriety. Early this year Mr. Bush issued such a call. Will you regularly remind CIA employees of this duty?

Mr. KNOCH. I think this is a desirable practice and I intend to see to it that it is continued, sir.

The CHAIRMAN. If an Agency employee were fearful, for whatever reason, of reporting a questionable activity to either the CIA Inspector General or the Intelligence Oversight Board, should he or she be able to come directly to this committee without fear of reprimand?

Mr. KNOCH. Indeed, sir.

The CHAIRMAN. One of the most effective tools of the Inspector General is the component survey, an indepth study of a particular segment of the CIA such as the Office of Current Intelligence. Will you have the Inspector General notify this committee of the schedule of component surveys and make the results of the surveys available to the committee?

Mr. KNOCH. I will be glad to work out arrangements to try to keep this committee informed of the surveys, sir, but I would like to take a slight reservation in committing myself to making the fullness

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SUBJECT: (Optional)

Reporting Arrangements with the SSCI

FROM:

Anthony A. Lapham
General Counsel

EXTENSION

NO.

DATE

14 January 1977

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. Legislative Counsel

17 JAN 1977

[Handwritten initials]

2.

3. Deputy Director of Central Intelligence

19 Jan

21 Jan

4.

OLC

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to 3:

Attached for your signature, finally, is the letter to Chairman Inouye which outlines the reporting arrangements that were the subject of questions and answers during your confirmation hearings. The relevant one-page excerpt from the hearings, also attached, has key questions and answers in brackets.

This letter has been approved by the White House. The general issue was presented to the President on 8 January, and the actual language was approved by Mike Duval and Phil Buchen, subject to my assurances that the letter was unobjectionable to the Department of Justice. I have obtained that assurance from in the Office of Legal Counsel, who said he had discussed the letter in draft (no changes were made in putting the draft in final) with Nino Scalia, Assistant Attorney General, Office of Legal Counsel, and the Deputy Attorney General

Anthony A. Lapham

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25X1

TRANSMITTAL AND DOCUMENT RECEIPT
Approved For Release 2005/06/23 : CIA-RDP79M00983A001500080020-3

TO: Chairman Daniel Inouye
Senate Select Committee on Intel.
G 308 Dirksen Senate Office Bldg.

FROM: Office of Legislative Counsel
Central Intelligence Agency
Room 7 D 35
Washington, D.C. 20505

THE DOCUMENTS LISTED HEREON ARE FORWARDED FOR:

INFORMATION	ACTION	RETENTION	LOAN
CONTROL NUMBER	DOC. DATE	SUBJECT (Unclassified preferred)	CLASS.
	21 Jan 77	Letter from Acting Director Knoche to Chairman Inouye regarding reports to the IOB	uncl

RECEIPT

SIGNATURE (acknowledging receipt of above documents)

DATE OF RECEIPT

Naldrew B Mac Donald

1/26/77

RETURN TO



OFFICE OF LEGISLATIVE COUNSEL
CENTRAL INTELLIGENCE AGENCY
ROOM 7 D 35
WASHINGTON, D.C. 20505